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May 15, 2018

VIA ELECTRONIC MAIL

Pam Keyser-Baker
WSPA and WYCW
pkeyser-baker@wspa.com

Re: Cease and Desist False Advertisement Regarding Catherine Templeton

Dear Ms. Keyser-Baker:

Our firm represents Catherine Templeton, candidate for Governor of South Carolina, and her principal campaign committee, Templeton for Governor. It has come to our attention that Palmetto PAC has purchased air time on your network to run a negative advertisement targeting my client ("the Advertisement"). The Advertisement blatantly misrepresents Ms. Templeton's job history and lies about her state employment to mislead South Carolina voters. We respectfully demand that your network refuse to air the Advertisement and that no similar airings of this misleading content be allowed on your network.

The Advertisement's claims are provably false. In fact, Ms. Templeton's primary opponents have repeatedly failed in their attempts to spread this lie, and their only "success" in this regard has been to convince the *Post and Courier's* staff to sacrifice their journalistic standards to contradict their own previous reporting on these issues. Both the falsity of the Advertisement's claims and the illegitimacy of the *Post and Courier's* recent reporting are explained in detail below and supported by the attached exhibits and affidavits.

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Department of Health and Environmental Control

First, the Advertisement falsely claims my client was fired from the Department of Health and Environmental Control (DHEC). To support this claim, Palmetto PAC cites a May 3, 2018, *Post and Courier* article that relies on anonymous sources to peddle the false narrative that Ms. Templeton was “pushed out” of the jobs. Here are the facts:

FACT 1: Former Governor Niki Haley, who was one of two persons with the authority to fire Ms. Templeton from the DHEC, recently went on the record to state that the story was false.

- “Haley, now U.S. ambassador to the United Nations, said the story was false. Catherine was not fired by Gov. Haley and offered her resignation voluntarily,” Haley’s U.N. office told the paper. *See* “Republican S.C. Gubernatorial Candidate Was Not Fired, Paper Pushes Story Anyway,” *Washington Free Beacon*, May 4, 2018, attached hereto as Exhibit 1.
- “But Haley, now the U.S. ambassador to the United Nations, says she did not fire Templeton. Haley backs up Templeton that she resigned on her own.” *See* “Sources say Catherine Templeton was pushed out of DHEC post. But Haley says otherwise,” *Post and Courier*, May 3, 2018, attached hereto as Exhibit 2.
- “Haley’s office said it released the statement about Templeton’s departure from DHEC to correct the records about an event that took place when she was governor.” *See* “Sources say Catherine Templeton was pushed out of DHEC post. But Haley says otherwise,” *Post and Courier*, May 3, 2018, attached hereto as Exhibit 2.
- “The Governor may remove the chairman of the [DHEC] board pursuant to Section 1-3-240(B); however, the Governor only may remove the other board members pursuant to Section 1-3-240(C). *See* S.C. St. § 44-1-20, attached hereto as Exhibit 3.

FACT 2: Former DHEC Chairman Allen Amsler, who was the other person with the authority to fire Ms. Templeton from the DHEC, recently went on the record to state that the story was false.

- “In addition to Haley’s on-the-record statement, Allen Amsler, who was the chairman of the department of health at the time, also confirmed Templeton was not fired. ‘She was true to her word and we were sorry to lose her,’ Amsler said, noting Templeton had always planned to step down from the health board when Haley’s first term as governor ended. *See* “Republican S.C. Gubernatorial Candidate Was Not Fired, Paper Pushes Story Anyway,” *Washington Free Beacon*, May 4, 2018, attached hereto as Exhibit 1.

- “On or after February 1, 1995, the board may remove a director only after consultation with and approval by the Governor. *See* S.C. St. § 44-1-40, attached hereto as Exhibit 4.
- *See* the Affidavit of Allen Amsler, attached hereto as Exhibit 5. To be clear, only Mr. Amsler and Governor Haley had the authority under South Carolina law to terminate Ms. Templeton from the DHEC, and both have outright rejected the false claim that she was fired.

FACT 3: Ms. Templeton left the DHEC on her own terms and was commended by the department and her superiors for her excellent service.

- “DHEC Director Catherine Templeton Announces Resignation,” Press Release from the South Carolina Department of Health and Environmental Control, January 8, 2015, attached hereto as Exhibit 6.
- “We greatly appreciate your three years with us, Catherine,” DHEC Board Chairman Allen Amsler told her before the group officially accepted her resignation at a meeting in Columbia, the paper reported in January 2015. *See* “Templeton steps down as director of DHEC,” *Post and Courier*, January 7, 2015, attached hereto as Exhibit 7.
- “Templeton received praise for her work from Haley, who said Templeton had ‘shown great leadership,’ and Sen. Tim Scott (R., S.C.) when she stepped down. Scott said losing Templeton’s service was a ‘loss for every part of this state.’” *See* “Republican S.C. Gubernatorial Candidate Was Not Fired, Paper Pushes Story Anyway,” *Washington Free Beacon*, May 4, 2018, attached hereto as Exhibit 1.

FACT 4: Other news outlets have fact-checked the *Post and Courier*’s article and determined that Ms. Templeton was not fired from running the government’s health agency. In fact, the *Post and Courier* sacrificed its journalistic standards by relying on “tips” from anonymous sources to contradict the newspaper’s own reporting on these issues.

- “Republican candidate for governor of South Carolina Catherine Templeton was not fired from running the government’s health agency, despite media reports.” *See* “Republican S.C. Gubernatorial Candidate Was Not Fired, Paper Pushes Story Anyway,” *Washington Free Beacon*, May 4, 2018, attached hereto as Exhibit 1.
- “The *Post and Courier* itself confirmed [Ms. Templeton was not fired] at the time. The paper reported Templeton left on good terms with the department and received a standing ovation from the board when she stepped down in 2015.” *See* “Republican S.C. Gubernatorial Candidate Was Not Fired, Paper Pushes Story Anyway,” *Washington Free Beacon*, May 4, 2018, attached hereto as Exhibit 1.

- “We greatly appreciate your three years with us, Catherine,” DHEC Board Chairman Allen Amsler told her before the group officially accepted her resignation at a meeting in Columbia, the paper reported in January 2015. *See* “Republican S.C. Gubernatorial Candidate Was Not Fired, Paper Pushes Story Anyway,” *Washington Free Beacon*, May 4, 2018, attached hereto as Exhibit 1.
- “The *Post and Courier* also reported then that Templeton, who was first appointed to the state’s labor department before heading the health department, would commit to serving for four years. *See* “Republican S.C. Gubernatorial Candidate Was Not Fired, Paper Pushes Story Anyway,” *Washington Free Beacon*, May 4, 2018, attached hereto as Exhibit 1.
- “On Thursday, she said she had fulfilled that promise, the *Post and Courier* reported at the time.” *See* “Republican S.C. Gubernatorial Candidate Was Not Fired, Paper Pushes Story Anyway,” *Washington Free Beacon*, May 4, 2018, attached hereto as Exhibit 1.
- “Despite previous reporting and Haley and Amsler’s confirmations that Templeton was not fired, the *Post and Courier* pushed the story that she was ‘forced out.’ The paper relied on anonymous sources.” *See* “Republican S.C. Gubernatorial Candidate Was Not Fired, Paper Pushes Story Anyway,” *Washington Free Beacon*, May 4, 2018, attached hereto as Exhibit 1.
- “Ordinarily, we could see running a story like this . . . *ordinarily*. Sure it’s anonymously sourced, but according to [the *Post and Courier* reporter] Shain the people he spoke with had ‘direct knowledge’ of the situation. Sounds credible, *right*? Sure . . . we hear from well-placed sources like that all the time. And we’ve broken tons of big stories using anonymous sources. There’s just one problem in this case. The one person who actually had ‘direct knowledge’ of the situation – *Haley* – explicitly told Shain his sources were wrong.” *See* “#SC2018: Catherine Templeton Fires Back Against #FakeNews,” *FITSNews*, May 3, 2018, attached hereto as Exhibit 8.
- “In other words, both the governor (who appointed the SCDHEC board) and the board’s chairman told Shain his story was bunk. *Yet he ran it anyway* . . . That decision surprised several reporters who spoke with us after reading Shain’s piece. ‘What in the hell was he thinking?’ one of the reporters told us. *See* “#SC2018: Catherine Templeton Fires Back Against #FakeNews,” *FITSNews*, May 3, 2018, attached hereto as Exhibit 8.

Department of Revenue

Second, the Advertisement falsely claims my client was fired from the Department of Revenue (DOR). To support this claim, Palmetto PAC brazenly cites a tweet from Tim Pearson, the chief strategist on Henry McMaster’s campaign payroll. Here are the facts:

Fact 5: Former DOR Director Rick Reames recently went on the record to state that the story was false.

- “Templeton and the [DOR] agency director at the time, Rick Reames, have said she made the decision to leave because her work was completed a little more than two months into a nine-month contract.” See “Sources say Catherine Templeton was pushed out of DHEC post. But Haley says otherwise,” *Post and Courier*, May 3, 2018, attached hereto as Exhibit 2.
- See the forthcoming Affidavit of Rick Reames, which will be sent to your station under separate cover.

FACT 6: Ms. Templeton left the DOR on her own terms because she had completed the job she was hired to perform.

- “Catherine Templeton, the former director of the state’s environmental and labor agencies, is leave her contract job with the S.C. Department of Revenue, she and the agency said Wednesday.” See “Templeton leaving S.C. tax agency,” *The State*, June 17, 2015, attached hereto as Exhibit 9.
- “Templeton said she told Revenue Department director Rick Reames about her decision after a June 2 kickoff meeting with a vendor working to stop tax-refund fraud. ‘I have really enjoyed getting to know your people and they are in a wonderful position to implement the project on their own,’ she wrote in the email to Reames. ‘Please let this serve as written notice terminating our contract.’” See “Templeton leaving S.C. tax agency,” *The State*, June 17, 2015, attached hereto as Exhibit 9.
- “A Revenue Department spokeswoman and Templeton said she departed only because she had completed her contract work.” See “Templeton leaving S.C. tax agency,” *The State*, June 17, 2015, attached hereto as Exhibit 9.

FACT 7: Tim Pearson, the source for Palmetto PAC’s claim, serves as a chief strategist for Henry McMaster’s campaign and has no legitimacy as a credible source.

- According the public campaign-finance filings, Pearson has been paid at least \$86,000 by Henry McMaster’s campaign:
 - \$20,000 on June 16, 2017
 - \$20,000 on August 14, 2017
 - \$20,000 on December 12, 2017
 - \$26,000 on February 7, 2018

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- It is also worth noting that Pearson served as Governor Haley's chief of staff from January 2011 to October 2012, when he resigned to run her reelection campaign. See <http://www.thestate.com/news/politics-government/politics-columns-blogs/the-buzz/article13912085.html>
- Not only did Tim Pearson work's in Governor Haley's office overlap with Ms. Templeton's government service for a brief period of time (9 of 33 months), Mr. Pearson had long departed the Governor's office at the time of Ms. Templeton resigned from DOR in June 2015. Simply put, he had no first-hand knowledge regarding Ms. Templeton's departure.
- In other words, Palmetto PAC's only substantiation for the claim that Ms. Templeton was fired from the DOR was tweets from (i) someone who was not a government official at the time she resigned from the DOR and (ii) someone who is now on the payroll of Henry McMaster, Ms. Templeton's political opponent. It is blatantly obvious that your station must pull the Advertisement for a lack of credible substantiation.

State Ports Authority

Third, the Advertisement claims my client was fired from the State Ports Authority, which is a very misleading claim given the facts.

FACT 8: Ms. Templeton was terminated from the Port because she released to the public corrupt state contracts regarding Henry McMaster's subsequently indicted or convicted political consultants. After being terminated for blowing the whistle on corruption within the state, Templeton participated in investigations by the Federal Bureau of Investigation and State Law Enforcement Division.

This attack by Palmetto PAC does not constitute a "candidate use." Under *Columbia Broadcasting Sys., Inc. v. Democratic Nat'l Comm.*, 412 U.S. 94 (1973), and *Nat'l Conservative Political Action Comm.*, 89 FCC 2d 626 (1982), your station is not obligated to air any third-party advertisements, such as those aired by Palmetto PAC. Simply put, Palmetto PAC does not have a guaranteed right of access to air the Advertisements on your network, and your network is not protected from legal liability for airing the Advertisement.

Broadcast licensees have a legal responsibility to review and to eliminate any false, misleading, or deceptive materials contained in advertising. We urge you to recognize Palmetto PAC's blatant disregard for the facts and respectfully demand that your network refuse to air this false Advertisement. We further request that you reject any attempts by Palmetto PAC to purchase time for the future airing of this Advertisement because of its material misstatements of fact and blatant disregard for the truth.

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Only your refusal to further disseminate this deliberately misleading and false Advertisement will satisfy your network's obligation to prevent the distribution of deceptive content to your audience. Any continued delivery of this content will make your network an active participant in distributing material misrepresentations of fact when our voters are owed true, honest, and fair information about their candidates.

Thank you for your prompt attention to this matter. Please contact me at your earliest convenience to advise on your network's actions regarding the airing of this Advertisement.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris K. Gober", with a long horizontal flourish extending to the right.

Chris K. Gober
Counsel to Templeton for Governor

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